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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,688	02/07/2001	Michio Miwa	0102/0156	5310

21395 7590 12/01/2004

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EXAMINER

VIEAUX, GARY

ART UNIT PAPER NUMBER

2612

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*up*

## Office Action Summary

Application No.

09/777,688

Applicant(s)

MIWA ET AL.

Examiner

Gary C. Vieaux

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2 and 3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/7/01, 4/03, 8/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Restriction Election***

Applicant's response to the Restriction Requirement of July 27, 2004, has been  
5 received and made of record. Election was made in relation to the second species as  
shown in Figs. 8-9, and as applied to by claims 2 and 3.

Applicant's election of claims 2 and 3 in the reply filed on August 19, 2004 is  
acknowledged. Because applicant did not distinctly and specifically point out the  
supposed errors in the restriction requirement, the election has been treated as an  
10 election without traverse (MPEP § 818.03(a)).

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C.  
119(a)-(d). The certified copy of Japanese application number 2000-36120, filed on  
15 February 15, 2000, has been received and made of record.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly  
indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- 5 (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 2** is rejected under 35 U.S.C. 102(b) as being anticipated by Ishida et al.

10 (EP 0 908 846 A2.)

Regarding claim 2, Ishida teaches an object monitoring apparatus comprising:

a movable lens (Fig. 8 indicator 12; col. 4 lines 34-36);

first means for converting an image, represented by light passing through the lens, into a video signal (Fig. 8 indicators 3 and 4; col. 4 lines 36-45);

- 15 second means for moving the lens to change an in-focus position, on which a combination of the lens and the first means is focused, among predetermined positions different from each other (Fig. 8 indicator 8; col. 4 line 45 – col. 5 line 17);

- third means for analyzing frequencies of video signals which are generated by the first means when the in-focus position coincides with the predetermined positions  
20 respectively (Fig. 8 indicator 8; col. 5 lines 3-17);

fourth means for deciding a highest of the frequencies analyzed by the third means (Fig. 8 indicator 8; col. 5 lines 3-17);

and

- fifth means for indicating the video signal having the highest frequency decided  
25 by the fourth means (Fig. 20; col. Step S40; col.11 lines 13-19.)

**Claim 3** is rejected under 35 U.S.C. 102(b) as being anticipated by Komiya (US #5,115,262.)

Komiya teaches an object monitoring apparatus comprising:

a movable lens (Fig. 1 indicator 1; col. 2 line 36-39);

5 first means for converting an image, represented by light passing through the lens, into a video signal (Fig. 1 indicator 2; col. 1 lines 37-50);

second means for moving the lens to change an in-focus position, on which a combination of the lens and the first means is focused, among predetermined positions different from each other (Fig. 1 indicators 15 and 16; col. 2 lines 36-51);

10 third means for analyzing frequencies of video signals for each of different bands, said video signals being generated by the first means when the in-focus position coincides with the predetermined positions respectively (Fig. 1 indicator 5; col. 1 lines 48-54; col. 2 lines 36-51);

fourth means for detecting a frequency component difference among the video  
15 signals from results of said analyzing by the third means for each of the different bands (Fig. 1 indicator 5; col. 1 lines 62-64);

fifth means for deciding a greatest of the frequency component differences detected by the fourth means and corresponding to the respective different bands (Fig. 1 indicator 8; col. 1 lines 64-67);

20 sixth means for detecting frequency components in the respective video signals for the band corresponding to the greatest frequency component difference decided by

the fifth means from the results of said analyzing by the third means (Fig. 1 indicator 9; col. 1 line 67 – col. 2 line 4);

seventh means for deciding a highest of the frequency components detected by the sixth means (Fig. 1 indicator 7; col. 2 lines 14-19 and 39-51);

5 and

eighth means for indicating the video signal having the highest frequency component decided by the seventh means (Fig. 1 indicator 7; col. 2 line 56 – col. 3 line 10).

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Toshinobu et al. (US #5,361,095) discloses a hill-climbing servo system.

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### ***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Vieaux whose telephone number is 703-305-9573. The examiner can normally be reached on Monday - Friday, 8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

- 5 For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary C. Vieaux  
Examiner  
Art Unit 2612

10 Gcv2

  
TUAN HO  
PRIMARY EXAMINER